

## EXHIBIT 41

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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STAR AUTO SALES OF BAYSIDE, INC.  
(d/b/a STAR TOYOTA OF BAYSIDE),  
STAR AUTO SALES OF QUEENS, LLC  
(d/b/a STAR SUBARU), STAR HYUNDAI  
LLC (d/b/a STAR HYUNDAI), STAR  
NISSAN, INC. (d/b/a STAR NISSAN),  
METRO CHRYSLER PLYMOUTH INC. (d/b/a  
STAR CHRYSLER JEEP DODGE) STAR AUTO  
SALES OF QUEENS COUNTY LLC (d/b/a  
STAR FIAT) and STAR AUTO SALES OF  
QUEENS VILLAGE LLC (d/b/a STAR  
MITSUBISHI),

Plaintiffs,

-against-

VOYNOW, BAYARD, WHYTE AND COMPANY  
LLP, HUGH WHYTE, and RANDALL  
FRANZEN,

Case No.  
18-cv-05775  
(ERK) (TAM)

Defendants.  
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February 15, 2023  
10:37 a.m.

Videotaped Deposition of RANDALL  
FRANZEN, taken by Plaintiffs, held at the  
offices of Milman Labuda Law Group PLLC,  
3000 Marcus Avenue, Suite 3W8, Lake Success,  
New York, before Lisa Hiesiger, a Shorthand  
Reporter and Notary Public within and for the  
State of New York.

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

2

A P P E A R A N C E S :

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Also Present:

JACQUELINE CUTILLO

ROBERT SEIBEL

HUGH WHYTE

MICHAEL KOUFAKIS

STEVE RAMBAM (Via Teleconference)

ANDREW GEDACHT, Videographer

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STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

25

1 Franzen

2 approximately 90 percent, that's my best  
3 guesstimate.

4 Q. You used the word "guesstimate."  
5 When you say guesstimate, it puts a little less  
6 certainty in it. Is it an estimate where you  
7 have some basis for that estimate or is it just a  
8 wild guess?

9 A. You're currently asking me a question  
10 over a long period of time, these are massive  
11 companies, we were doing tax work, we had tax  
12 engagements, we had tax audits, we had various  
13 things, I cannot stand here and tell you exactly.  
14 If you gave me a piece of paper and a computer, I  
15 can write down and give you a better guesstimate,  
16 but that's what I'm giving you, a guesstimate,  
17 but that's what I can only guess based upon your  
18 question.

19 Q. As far as interim visits, that was  
20 part of what Voynow did at Star, correct?

21 A. If I understand your question, what  
22 Voynow did at Star was tax engagements. The tax  
23 engagements, interim tax engagements, was what we  
24 called interim, they were between periods for the  
25 year-end. Again large companies, a lot of

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

26

1 Franzen

2 income, a lot of tax numbers that had to be  
3 calculated and we had big time estimates we had  
4 to watch.

5 New York City was also under, if you  
6 made X amount of dollars with the city returns,  
7 you had to pay quarterlies as you went. So these  
8 interim, tax interim visits were interim between  
9 interim periods.

10 Q. I don't know if that responds to my  
11 question. You did have these interim visits,  
12 correct?

13 A. We had tax interim visits between  
14 year-ends.

15 Q. So you're calling them tax interim  
16 visits now, other people called them interim  
17 visits, right? You've heard other people call it  
18 interim visits, right?

19 A. Repeat your question.

20 Q. Have you heard other people call  
21 these interim visits, not interim tax visits?

22 A. Yes, I've heard that.

23 Q. So regardless of what you want to  
24 call it, how many times a year did you come to  
25 Star for those types of visits?

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

27

1 Franzen

2 A. We normally came to Star in the  
3 interim period as far as anywhere around the June  
4 to August/September type time, and again for  
5 estimating quarterly taxes, to figure out what  
6 was owed. In our tax interim periods, again call  
7 them tax interim periods, whatever you want to  
8 call them, it's interim between the tax return  
9 periods.

10 Q. So for that interim period, how many  
11 times a year approximately would you visit Star?

12 A. Normally, and again this is my best  
13 guess at this point in time, normally we would  
14 show up, I said earlier somewhere between June,  
15 July, August, September period for that  
16 second/third quarter estimate.

17 Then we would do around  
18 November/December, we would be there for the tax  
19 planning estimate of time to try to determine  
20 again the first quarter, if a first quarter, a  
21 January payment was due and what type of tax  
22 numbers that had to be paid out at the end of --  
23 before the end of the year.

24 Q. So you'd come in the June to  
25 August/September time period, then you would come

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

28

1 Franzen

2 again in November/December for tax planning.

3 Would you come any other time of the year?

4 A. We would show up in January to do the  
5 year-end tax work.

6 Q. So as you sit here today, is your  
7 best estimate that on a yearly basis you would  
8 come to Star approximately three times a year?

9 A. Correct.

10 Q. As far as interim visits, not tax  
11 planning, not year-end, approximately how many  
12 interim visits would you come to Star, once a  
13 year or more than once a year?

14 A. Again my best guess at this point in  
15 time would be we normally would come up once a  
16 year between that June/July, whenever the client  
17 asked us to come up to that in that period.  
18 However, as I stated again, there were other  
19 times that we would come up for audits, tax  
20 audits, Department of Labor audits, 941 audits,  
21 8300 audits. So there's times that we could be  
22 up there an additional period working on an  
23 audit, working on what was requested by the  
24 client. All related to taxes.

25 Q. As far as the interim period visit,

STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

127

1 Franzen

2 person could have worked on parts, one person  
3 could have worked on service, one person could  
4 have worked on the part of the interim tax  
5 letter.

6 Q. What is the interim tax letter, is  
7 that the interim report, is that what you're  
8 referring to?

9 A. The interim reports, the interim tax  
10 letter that's between the two tax periods, that's  
11 the interim period. It gives the letter to the  
12 client to figure out what needs to be written  
13 off, picked up, adjusted and determine where  
14 we're at before the end of the year.

15 Q. What was the purpose of that interim  
16 report or what you call an interim tax letter?

17 A. I just -- do you want to read back  
18 what I just said. I just said that's what it  
19 was.

20 MS. FITZGERALD: Just read back his  
21 answer.

22 (Record read)

23 MS. FITZGERALD: I think he also said  
24 written off.

25 Q. Do you want to amend your testimony?



STAR AUTO SALES, et al. v. VOYNOW, BAYARD, et al.  
Randall Franzen --- February 15, 2023

185

1 Franzen

2 A. Yes.

3 Q. Do you know if there is any follow-up  
4 by Voynow as to whether these were actually  
5 researched or not or what the result was?

6 A. Voynow does not follow up, they bring  
7 it to their attention. If they want to follow up  
8 it's up to the client. It's not what we do.  
9 Again it's tax stuff we're looking at again very  
10 aged items, are they income, are they liabilities  
11 that's really due or they aren't due, that's what  
12 we do. Other than that, it's their books and  
13 records, not ours.

14 Q. You can put that aside. I show you  
15 what has previously been marked as Exhibit 87 for  
16 identification. Can you tell me what that  
17 document is?

18 A. I don't know who -- it's from Bobby  
19 and it's going to, I don't know who's personal  
20 e-mail that is. I can guess, I don't know. Is  
21 it Jackie, I have no idea, I never saw it before.

22 Q. You are copied on this e-mail,  
23 correct?

24 A. Correct.

25 Q. It's dated June 12, 2017, the